

United States District Court
For the Northern District of California

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6 IN THE UNITED STATES DISTRICT COURT

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10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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JULIA SMITH,

No. C 16-04101 WHA

Plaintiff,

v.

14 CONSTELLATION BRANDS, INC., and
DOES 1 through 50, inclusive,

**ORDER STRIKING AMENDED
COMPLAINT AND EXTENDING
DEADLINE TO FILE MOTION
FOR LEAVE TO AMEND**

Defendant.

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16 The order dismissing plaintiff's complaint provided that by September 16 she could seek
17 leave to file an amended complaint with a formal motion explaining how the proposed amended
18 complaint cured the defects in the original complaint. On September 16, plaintiff herself, not
19 her counsel of record, filed an amended complaint. Appended to the amended complaint was a
20 hand-written cover letter in which plaintiff acknowledged that her complaint "does not
21 completely speak to" the defects identified in the order, but that she had terminated her
22 relationship with her attorney, Daniel Bacon. She further averred that Attorney Bacon did not
23 "supply all information in order to continue this case" until the morning of September 16.
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Attorney Bacon has not sought leave to withdraw from this action and has not sought to
26 substitute counsel.

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This order construes plaintiff's letter as a motion to extend the deadline to file a motion
seeking leave to amend her complaint. Plaintiff shall have until **THURSDAY, OCTOBER 20 AT
NOON** to file a formal motion seeking leave to amend her complaint. As stated, the motion must

1 affirmatively demonstrate how the proposed amended complaint cures the defects identified in
2 the order dismissing the action (and any others identified in defendant's motion). The motion
3 must include a proposed amended complaint and a redlined copy identifying the changes from
4 the initial complaint.

5 To be clear, leave to amend has not yet been granted. Accordingly, plaintiff's
6 unauthorized amended complaint is hereby **STRICKEN**. This is without prejudice to a formal
7 motion seeking leave to file that proposed amended complaint.

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9 **IT IS SO ORDERED.**

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11 Dated: September 19, 2016.

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WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE